

IT IS ORDERED as set forth below:



Date: June 21, 2007

James E. Massey

James E. Massey
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

CASE NO. 01-84744

Ida Richard,

CHAPTER 7

Debtor.

JUDGE MASSEY

Ida Richard,

Movant,

v.

CONTESTED MATTER

JLA Credit Corp. et al. ,

Respondents.

ORDER DENYING MOTION TO AVOID LIEN

Debtor moves to avoid judgment liens held by the Respondents to this motion. The Court held a hearing on the motion on June 19, 2007. Only Debtor and Respondent Business Development Corporation of Georgia appeared at the hearing. This Order applies to all Respondents other than Business Development Corporation of Georgia, as to which the parties

are preparing a consent order, which will also deny the motion to avoid lien as to Business Development Corporation of Georgia for the same reason set forth in this Order.

Debtor's counsel told the Court at the hearing that Debtor purchased a house in 2004 and desires to refinance the loan on that house and that because the judgment liens of Respondents remain of record, Debtor is unable to refinance that loan. Debtor filed this case on August 8, 2001 and received a discharge in an order entered on November 20, 2001. The motion alleges the judgments and liens of Respondents were obtained pre-petition and incorrectly claims that prior to the filing of this case on August 8, 2001.

Certain judgment liens may be avoided in a bankruptcy case pursuant to 11 U.S.C. § 522 if they impair an exemption claimed by the individual debtor. Debtor Ida Richard did not claim the residence she purchased in 2004 as exempt on her schedule C filed in this case in 2001 for the obvious reason that she did not own that property in 2001. Therefore, section 522 has no application here, and Debtor cannot avoid the liens of the Respondents, if they had any such liens.

Debtor is not without a remedy, however. Based on the allegations contained in Debtor's motion, the liens of Respondents did not and cannot attach to property that she acquired on and after August 8, 2001, the date on which she filed this Chapter 7 case. Section 524 of the Bankruptcy Code, entitled "Effect of Discharge," provides in relevant part:

(a) A discharge in a case under this title--

(1) voids any judgment at any time obtained, to the extent that such judgment is a determination of the personal liability of the debtor with respect to any debt discharged under section 727, 944, 1141, 1228, or 1328 of this title, whether or not discharge of such debt is waived;

(2) operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect, recover or offset any such debt as a personal liability of the debtor, whether or not discharge of such debt is waived; and

(3) operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect or recover from, or offset against, property of the debtor of the kind specified in section 541(a)(2) of this title that is acquired after the commencement of the case, on account of any allowable community claim, except a community claim that is excepted from discharge under section 523, 1228(a)(1), or 1328(a)(1), or that would be so excepted, determined in accordance with the provisions of sections 523(c) and 523(d) of this title, in a case concerning the debtor's spouse commenced on the date of the filing of the petition in the case concerning the debtor, whether or not discharge of the debt based on such community claim is waived.

11 U.S.C. § 524. Pursuant to Section 524(a), any judgment obtained against Debtor Ida Richard prior to August 8, 2001 is void and of no effect. Notwithstanding that a fi fa on such a judgment may have been obtained and filed with respect to such a judgment before, on or after August 8, 2001, such a fi fa and such a judgment create no lien against any property acquired by Debtor on or after August 8, 2001. Any effort to enforce such a void lien would violate the discharge injunction set forth in 11 U.S.C. § 524(a)(2).

Because Debtor is not entitled under section 522 to avoid a judgment lien as to property acquired after she filed this case (and does not need to attempt to do so because any such judgment lien obtained with respect to a judgment obtained prior to the filing of this case is void), Debtor's motion to avoid lien is DENIED, provided that Debtor and Respondent Business Development Corporation of Georgia shall present a separate consent order as to the disposition of this motion as to that Respondent.

The Clerk is directed to serve a copy of this Order on Debtor, Debtor's counsel, all Respondents and attorneys listed in the certificate of service of Debtor's motion to avoid liens

(document no. 29), and Mark Golder, counsel for Business Development Corporation of Georgia, at the address set forth in his client's response to the motion.

END OF ORDER